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GOVERNOR

STATE OF MAINE
DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0022

PATRICK MCGOWAN
COMMISSIONER

PERMIT

BUILDING PERMIT BP 14331

The staff of the Maine Land Use Regulation Commission, after reviewing the application and supporting documents submitted by Faye and Don Soderberg for Building Permit BP 14331, finds the following facts:

1. Applicants: Faye and Don Soderberg
1 Boulder Ridge Road
Hale's Location, NH 03860
2. Date of Completed Application: December 16, 2009
3. Location of Proposal: Parkertown Township, Oxford County
Taxation Lot 4 on Map 5
4. Zoning: (P-GP) Great Pond Protection Subdistrict
5. Lot Size: 35,400 sq. ft. (owned)
6. Principal Building: Existing Single Family Residence (18 ft. by 29 ft.) (To be converted to bunkhouse)
Proposed Single Family Residence (24 ft. by 32 ft.)
with Proposed Porch (6 ft. by 24 ft.)
7. Accessory Structures: Existing Shed (5 ft. by 9 ft.)
Existing Stairway (3 ft. by 8 ft.)
Existing Lakeside Stairway (6 ft. by 8 ft.)
8. Sewage Disposal: Existing Pit Privy
Proposed Primitive Graywater Disposal System
9. Affected Water Body: Aziscohos Lake

The Commission has identified Aziscohos Lake as a management class 7, resource class 1A, accessible, developed lake with the following resource ratings: outstanding fisheries resources, outstanding wildlife resources, significant scenic resources, significant shore character, outstanding cultural resources, significant physical resources.

Background

10. The applicants' 35,400 square foot lot has 200 feet of frontage on Raspberry Road, and 200 feet of frontage on Aziscohos Lake. The lot is developed with a pre-Commission 19 foot by 29 foot single family residence and a 5 foot by 9 foot shed. The residence is located 54 feet from the lake, and the shed is located 85 feet from the lake. All structures are located over 50 feet from Raspberry Road, and over 15 feet from the nearest property boundary line.

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Proposal

11. The applicants propose to convert the existing 18 foot by 29 foot single family residence to a bunkhouse by disconnecting and removing all plumbing, kitchen, and bath facilities. The applicant also proposes to construct a new 24 foot by 32 foot single family residence, with a 6 foot by 24 foot porch. The proposed residence will be located at least 50 feet from Raspberry Road, at least 15 feet from the nearest property boundary line, and at least 100 feet from Rangeley Lake. The residence will be served by a proposed primitive graywater disposal system and pit privy. The applicants also propose to expand the existing gravel parking area by constructing a 12 foot by 65 foot gravel driveway and a 12 foot by 26 foot gravel parking area behind and beside the proposed dwelling. The applicants propose site preparation work which includes filling and grading approximately 5200 square feet of the lot, approaching within 90 feet of the lake.

Review Criteria

12. Under the provisions of Section 10.26, A, 1, of the Commission's Land Use Districts and Standards, the minimum lot size for residential uses is 40,000 square feet per dwelling unit.
13. Under the provisions of Section 10.11, A, 1, of the Commission's Land Use Districts and Standards, and in accordance with 12 M.R.S.A. §685-A (5), legally existing nonconforming structures, uses and lots will be allowed to continue.
14. Under the provisions of Section 10.11, B, 1, of the Commission's Land Use Districts and Standards, permits are required for all expansions, reconstructions, relocations, changes of use, or other development of nonconforming structures, uses and lots, except where specifically provided in section 10.11. In order to obtain a permit, the applicant must meet the approval criteria in 12 M.R.S.A Section 685-B (4) and demonstrate that the project will not adversely affect surrounding uses and resources and that there is no increase in the extent of nonconformance.

Based upon the above Findings, the staff concludes that

15. The applicants' lot does not conform to the dimensional requirements of Section 10.26, A, 1, of the Commission's Land Use Districts and Standards.
16. The proposed dwelling and the proposed discontinuance of the use of the existing structure as a dwelling would not adversely affect surrounding uses and resources in that there would be no change in use from the current situation. The proposed dwelling would not increase the extent of nonconformance as there would still be only one dwelling unit on the lot.
17. The facts are otherwise as represented in Building Permit application BP 14331 and supporting documents.

If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A. and the provisions of Section 10.11, B, 1 of the Commission's Land Use Districts and Standards.

Therefore, the staff approves the application of Faye and Don Soderberg with the following conditions:

1. Construction activities authorized in this permit must be substantially started within 2 years of the effective date of this permit and substantially completed within 5 years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this

- permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
2. Structures authorized under this permit must be set back a minimum of 100 feet from the normal high water mark of Aziscohos Lake, at least 50 feet from Raspberry Road, and at least 15 feet from other property boundary lines.
 3. Clearing and construction activities, except those necessary to establish sedimentation control devices, shall not begin until all erosion and sedimentation control devices (including ditches, culverts, sediment traps, settling basins, hay bales, silt fences, etc.) have been installed and stabilized. Once in place, such devices shall be maintained to ensure proper functioning. All temporary sedimentation and erosion control devices shall be removed after construction activity has ceased and a cover of healthy vegetation has established itself or other appropriate permanent control measures have been effectively implemented. Permanent soil stabilization shall be completed within one week of inactivity or completion of construction.
 4. Upon addition of plumbing fixtures to the 24 foot by 32 foot approved residence, all plumbing fixtures, kitchen and bathroom facilities shall be disconnected and removed from the 18 foot by 29 foot residence, and the structure shall be used as a bunkhouse for overnight accommodation of guests of the permitted residence only.
 5. All clearing of vegetation on the lot not specifically authorized by this permit must comply with the Commission's standards for vegetative clearing Section 10.27, B, a copy of which is attached.
 6. All filling and grading activities on the lot not specifically authorized by this permit must comply with the Commission's standards for Filling and Grading, Section 10.27, F, a copy of which is attached.
 7. The driveway must be located and constructed so that (a) it will not erode or create any undue restriction or disruption of existing surface water drainage ways and (b) it will divert runoff to a vegetated buffer strip so as to prevent it from directly entering a water body, mapped P-WL1 wetland or roadway.
 8. To protect the scenic quality of Aziscohos Lake, all authorized structures must not be sited on a ridge or knoll such that they are visible above the tree line from the lake. All authorized structures must be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways, shorelines or water bodies.
 9. Once construction is complete, and prior to occupying the proposed residence, the permittees must obtain a Certificate of Compliance for Building Permit BP 14331 from the Commission, certifying that the terms and conditions of this Permit have been complied with. The permittees shall submit all information requested by the Commission demonstrating compliance with the terms of this permit.
 10. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
 11. All exterior lighting must be located and installed so as to illuminate only the target area to the extent possible. Exterior lighting must not produce a strong, dazzling light or reflection beyond lot lines onto neighboring properties, water bodies, or roadway so as to impair driver vision or to create nuisance conditions.
 12. The lot may not be further divided without the prior review and approval of the Commission. In addition, certain restrictions, including subdivision, setback and minimum lot size requirements, and activities on

the original parcel from which the lot was first divided, may limit or prohibit a re-division of the lot in the future. The permittee is hereby advised to consult applicable land use laws and rules and with the Commission prior to any future re-division of the lot.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittee complies with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT AUGUSTA, MAINE, THIS THIRTY-FIRST DAY OF DECEMBER, 2009.

By: 
for Catherine M. Carroll, Director

B. VEGETATION CLEARING**10.27,B**

Vegetation clearing activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

The following requirements shall apply to vegetation clearing activities for any purpose other than road construction, road reconstruction and maintenance, wildlife or fishery management, forest management, agricultural management, public trailered ramps or hand-carry launches:

1. A vegetative buffer strip shall be retained within:
 - a. 50 feet of the right-of-way or similar boundary of any public roadway,
 - b. 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any tidal water or flowing water draining less than 50 square miles, and
 - c. 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.
2. Within this buffer strip, vegetation shall be maintained as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath is permitted, provided it does not exceed six (6) feet in width as measured between tree trunks, and, has at least one bend in its path to divert channelized runoff.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other natural vegetation is maintained.

For the purposes of this section a "well-distributed stand of trees" adjacent to a body of standing water 10 acres or greater in size shall be defined as maintaining a rating score of 24 or more in a 25-foot by 50-foot rectangular area as determined by the following rating system.

Near other water bodies, tributary streams and public roadways a "well-distributed stand of trees" shall be defined as maintaining a rating score of 16 or more per 25-foot by 50-foot (1250 square feet) rectangular area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2.0 to < 4.0	1
4.0 to < 8.0	2
8.0 to < 12.0	4
12.0 +	8

Table 10.27,B-1. Rating system for a well-distributed stand of trees.

The following shall govern in applying this rating system:

- (1) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;
- (2) Each successive plot shall be adjacent to but not overlap a previous plot;
- (3) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;
- (4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and
- (5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangular area. If 5 saplings do not exist, the landowner or lessee may not remove any woody stems less than 2 inches in diameter until 5 saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

- c. In addition to Section 10.27,B,2,b above, no more than 40% of the total basal area of trees 4.0 inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period.
 - d. Pruning of live tree branches is prohibited, except on the bottom 1/3 of the tree provided that tree vitality will not be adversely affected.
 - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be established with native tree species.
3. At distances greater than one hundred (100) feet, horizontal distance, from the normal high water mark of a body of standing water greater than 10 acres, no more than 40% of the total basal area of trees four inches or more in diameter, measured at 4½ feet above ground level, may be removed in any ten (10) year period. In no instance shall cleared openings exceed, in the aggregate, 10,000 square feet, including land previously cleared. These provisions apply to areas within 250 feet of all bodies of standing water greater than ten (10) acres, and to the full depth of the P-AL zone. This requirement does not apply to the development of uses allowed by permit.
 4. Cleared openings legally in existence as of June 7, 1990 may be maintained, but shall not be enlarged except as permitted by these regulations.

In all subdistricts where natural vegetation is removed within the required vegetative buffer strip of a flowing water, body of standing water, tidal water, or public roadway, it shall be replaced by other vegetation (except where the area cleared is built upon) that is effective in preventing erosion and retaining natural beauty.

F. FILLING AND GRADING**10.27,F**

The following requirements for filling and grading shall apply in all subdistricts except as otherwise provided herein.

Filling and grading activities not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the subdistrict involved. An applicant for such permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resources and uses in the area.

These standards do not apply to filling or grading activities which constitute forest or agricultural management activities, the construction, reconstruction and maintenance of roads, or the construction of public trailered ramps, hand-carry launches, or driveways. Such activities are separately regulated.

1. Within 250 feet of water bodies and wetlands, the maximum size of a filled or graded area, on any single lot or parcel, shall be 5,000 square feet. This shall include all areas of mineral soil disturbed by the filling or grading activity; and
2. Beyond 250 feet from water bodies, the maximum size of filled or graded areas, as described above, shall be 20,000 square feet, except that there shall be no limit to the size of filled or graded areas in M-GN subdistricts which are greater than 250 feet from water bodies and wetlands. In such M-GN subdistrict areas, the provisions of Section 10.27,F,4 and 6 shall apply; and
3. Clearing of areas to be filled or graded is subject to the clearing standards of Section 10.27,B; and
4. Imported fill material to be placed within 250 feet of water bodies shall not contain debris, trash, rubbish or hazardous or toxic materials. All fill, regardless of where placed, shall be free of hazardous or toxic materials; and

5. Where filled or graded areas are in the vicinity of water bodies or wetlands such filled or graded areas shall not extend closer to the normal high water mark of a flowing water, a body of standing water, tidal water, or upland edge of wetlands identified as P-WL1 subdistrict than the distance indicated in the following table:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark or Upland Edge (Feet Along Surface of the Ground)
10 or less	100
20	130
30	170
40	210
50	250
60	290
70	330

Table 10.27,F-1. Unscarified filter strip width requirements for exposed mineral soil created by filling and grading.

6. All filled or graded areas shall be promptly stabilized to prevent erosion and sedimentation.

Filled or graded areas, including all areas of disturbed soil, within 250 feet of water bodies and wetlands, shall be stabilized according to the Guidelines for Vegetative Stabilization contained in Appendix B of this chapter.

APPENDIX B. GUIDELINES FOR VEGETATIVE STABILIZATION

Areas of disturbed soil, including but not limited to areas that are filled, graded or otherwise disturbed during construction projects, should be stabilized according to the following guidelines. These guidelines do not apply to forest management activities and are not strict regulations, and therefore alternative methods of stabilizing soil may be used. However, whenever soil stabilization or stabilization of disturbed areas is required by regulation or by the terms of individual permits, individuals must assure that either these guidelines, or measures equally effective in stabilizing disturbed areas of soil are employed.

The goals to be achieved by proper stabilization are the avoidance of accelerated soil erosion and the avoidance of sedimentation or pollution of water bodies. All stabilization measures must be maintained so that grass or other vegetation remains intact and healthy, otherwise these measures will be ineffective.

In General:

1. Sterile soils such as sands and gravels should be covered with 2 to 4 inches of soil medium that will support vegetative growth.
2. Disturbed soil areas should be graded such that runoff water is either minimized or eliminated from running over the site.
3. Disturbed areas which can be seeded between May 1 and September 15 should be prepared and seeded during that period.
4. Disturbed areas which cannot be seeded between May 1 and September 15 should be mulched with hay, straw or some other suitable material to keep them as stable as possible over the winter, and particularly during spring runoff the following year. For over-wintering, mulch must be tacked down, as it is easily blown around on frozen ground, leaving areas of soil exposed. Mulch hay should be applied at a depth of 4 inches, or between 150 to 200 lbs. per 1000 square feet, over the disturbed site. Mulched over-wintered areas should be prepared and seeded the following spring as soon as conditions allow.

It is not recommended that disturbed areas be seeded after September 15th ("dormant seeding") for a number of reasons. Among the reasons, seeding rates are doubled, which is more expensive; timing is critical to ensure that germination does not occur before the following spring; there is an increased risk of sedimentation because sites are generally wetter in the fall; the thicker mulch must be removed in the spring in order to allow the germinating seed to survive; and the application of fertilizer during this time increases the risk of leaching or runoff loss of nutrients into water bodies.

5. Seeding preparation, in addition to providing a soil medium that will support vegetative growth if the site is sterile, includes the application of lime and fertilizer, which should be lightly raked prior to seeding. After the area is seeded, it should be lightly watered and then mulched with 70 to 90 lbs. (2 standard bales) per 1,000 square feet of weed free hay or straw to protect the seed. Keep the site stable and moist, and allow the seed to germinate and grow.
6. For accurate liming as well as fertilization, it is recommended that you have the soil analyzed to determine the specific nutrient requirements of your site.

Lime should be applied at a rate of approximately 140 pounds to 1000 square feet of area. This rate may vary depending on the natural conditions of the soil on the site. 10-5-20 fertilizer should be applied at a rate of 18.5 lbs. per 1000 square feet of area. Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

7. In shoreland areas in particular, fertilizers should be of the "quick release" low phosphorus type, such as 12-4-8 mixtures applied at a rate of 8 pounds per 1000 square feet of area. If you are near water bodies, it is important not to apply more than approximately this amount of fertilizer, as excess may be washed into streams or lakes and contribute to lowering water quality and such things as algae blooms in lakes.

Following the establishment of vegetation, non-phosphorous fertilizer should be used in accordance with the Department of Environmental Protection's recommendations.

Fertilizers should never be applied right before thunder storms or before spring runoff, because the great amounts of water running over the land will wash the fertilizer, particularly phosphorus, into water bodies. However, a light watering after the fertilizer is applied will help bind the phosphorus to the soil.

8. There are many combinations of grasses that can be used. One combination particularly good for providing soil stability, generally referred to as the Soil Conservation Mixture, consists of: (Proportions, by weight)

Creeping Red Fescue	35%	Kentucky Bluegrass	25%
Annual Rye Grass	15%	Perennial Rye Grass	10%
Red Top	10%	White Dutch Clover	5%
* Oats - See Below			

This seed would be applied at a rate of 1 pound per 1000 square feet. These particular grasses do best if mowed no closer than 2-1/2 to 3 inches from the ground. Of course, other seed mixtures are available.

It is important, in choosing a mixture, to choose one suitable for the site being stabilized. There are many different types of seeding mixtures designed for particular site conditions such as shade, sun, and drainage. Any mix should contain some seed which germinates rapidly to provide the quickest stabilization possible while awaiting the germination of the remaining types.

- (*) For quick germination, oats are very good. They germinate in 7 to 10 days. They should be planted at a rate of approximately 1 to 1-1/2 bushels per acre, in addition to the basic grass mixture. Oats should be mowed when they reach knee height to allow the germinating grasses to receive sunlight.

Alternatives:

As indicated above, other stabilization programs may be used, provided they are equivalently effective in stabilizing disturbed areas and preventing accelerated soil erosion and sedimentation of water bodies. Further assistance may be obtained, including in some cases site-specific recommendations, as follows:

- Local Soil and Water Conservation Districts
- The USDA Natural Resource Conservation Service
- Maine Department of Environmental Protection, Lakes Program
- Landscaping Professionals
- Reputable Lawn and Garden Supply Dealers

The following documents may provide valuable assistance to those developing a soil stabilization plan:

Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices (Cumberland County Soil & Water Conservation District and Maine Department of Environmental Protection, 1991)

Strategy for Managing Nonpoint Source Pollution From Agricultural Sources and Best Management Guidelines (NPS Agricultural Task Force, 1991)

Erosion and Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices (Maine Forest Service, 1991)